



BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2020-0117; FRL-10015-71]

Calcium Pantothenate; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of calcium pantothenate (CAS Reg. No. 137-08-6) when used as an inert ingredient (enzyme cofactor) in pesticide products applied to/on all growing crops pre-harvest, limited to 0.1% (by weight) in pesticide formulations. SciReg, Inc on behalf of Valagro, S.p.A submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of certain calcium pantothenate when used in accordance with this exemption.

DATES: This regulation is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Objections and requests for hearings must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2020-0117, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency

Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: RDfRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).

- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2020-0117 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2020-0117, by one of the following methods:

- *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions

for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

II. Petition for Exemption

In the *Federal Register* of May 8, 2020 (85 FR 27346) (FRL-10008-38), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (IN-11371) by SciReg, Inc (12733 Director's Loop, Woodbridge, VA 22192) on behalf of Valagro S.p.A. (Zona Industriale, Via Cagliari, 1, 66041 Atessa (CH), Italy). The petition requested that 40 CFR be amended by establishing an exemption from the requirement of a tolerance for residues of vitamin B5 (CAS Reg. No. 137-08-6) when used as an inert ingredient (enzyme cofactor) in pesticide products applied to/on all growing crops pre- harvest under 40 CFR 180.920, limited to 0.1% (by weight) in pesticide formulations. That document referenced a summary of the petition prepared by SciReg, Inc on behalf of Valagro, S.p.A, the petitioner, which is available in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they

have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term “inert” is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is “safe.” Section 408(c)(2)(A)(ii) of FFDCA defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Under FFDCA section 408(c)(2)(B), EPA must take into account, among other considerations, the factors in subparagraphs (C) and (D) of subsection (b)(2). Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....”

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human

health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for certain calcium pantothenate including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with calcium pantothenate follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by calcium pantothenate as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at <http://www.regulations.gov> in the document, *Calcium Pantothenate, Vitamin B5 - Human Health Risk and Ecological Effects Assessment of Request to Amend an Existing Exemption from the Requirements of a Pesticide Tolerance Under*

40 CFR 180.920 for Food Use Inert Ingredient, in docket ID number EPA-HQ-OPP-2020-0117.

Vitamin B5 is also known as calcium pantothenate. EPA is using the term “calcium pantothenate” in this document and the tolerance exemption to refer to vitamin B5 to be consistent with standard agency nomenclature for the identification of this substance.

The acute oral and inhalation toxicities are low in rats and mice treated with calcium pantothenate. It is not irritating to the rabbit eye or skin.

No toxicity is observed in repeated dose studies conducted with calcium pantothenate administered to rats. Fetal susceptibility is not observed in the reproduction and developmental toxicity studies in rats. No adverse effects are observed in parents, offspring or reproduction in rats treated with calcium pantothenate at doses up to 2,000 mg/kg/day.

Mutagenicity is not expected with calcium pantothenate based on available mutagenicity studies. Calcium pantothenate is not expected to be carcinogenic based the lack of toxicity.

Neurotoxicity and immunotoxicity studies are not available for review. However, no evidence of neurotoxicity or immunotoxicity is observed in any of the available studies on calcium pantothenate.

B. Toxicological Points of Departure/Levels of Concern

The available toxicity studies indicate that calcium pantothenate is not acutely toxic. The acute oral lethal dose (LD)₅₀ for mice and rats is > 10,000 milligrams/kilograms (mg/kg). No effects are observed in repeated dose studies at doses up to 2,000 mg/kg/day of calcium pantothenate in rats. Since no signs of toxicity are observed, an endpoint of concern for risk assessment purposes was not identified. EPA assessed dietary and other non-occupational exposures qualitatively.

C. Exposure Assessment

1. *Dietary exposure from drinking water, food and feed uses.* In evaluating dietary exposure to calcium pantothenate, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from calcium pantothenate in food as follows:

Dietary exposure (food and drinking water) to calcium pantothenate may occur following ingestion of foods with residues from their use in accordance with this exemption. Dietary exposure may also occur from its use as a dietary supplement and as a direct food additive under the Food and Drug Administration Code of Federal Regulations Title 21. However, a quantitative dietary exposure assessment was not conducted since a toxicological endpoint for risk assessment was not identified.

2. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

Calcium pantothenate may be used in pesticide products and non-pesticide products that may be used in and around the home. Calcium pantothenate may also be found in cosmetics and personal care products. Based on the discussion above regarding the toxicity of the calcium pantothenate, a quantitative residential exposure assessment for calcium pantothenate was not conducted.

3. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCFA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide's residues and “other substances that have a common mechanism of toxicity.”

Based on the available data, calcium pantothenate does not have a toxic mechanism; therefore, section 408(b)(2)(D)(v) does not apply.

D. Safety Factor for Infants and Children

Based on the lack of threshold effects, EPA has not identified any toxicological endpoints of concern and is conducting a qualitative assessment of calcium pantothenate. The qualitative assessment does not use safety factors for assessing risk, and no additional safety factor is needed for assessing risk to infants and children. Based on an assessment of calcium pantothenate, EPA has concluded that there are no toxicological endpoints of concern for the U.S. population, including infants and children.

E. Aggregate Risks and Determination of Safety

Because no toxicological endpoints of concern were identified, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to calcium pantothenate residues.

V. Other Considerations

Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of calcium pantothenate in or on any food commodities. EPA is establishing limitations on the amount of calcium pantothenate that may be used in pesticide formulations applied pre-harvest. These limitations will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for food use that exceeds 0.1 % by weight of calcium pantothenate in the final pesticide formulation.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established for residues of calcium pantothenate (CAS Reg. No. 137-08-6) when used as inert ingredients (enzyme cofactor) in pesticide products applied to/on all growing crops pre- harvest under 40 CFR 180.920, limited to 0.1% (by weight) in pesticide formulations.

VII. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled “Reducing Regulations and Controlling Regulatory Costs” (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 14, 2020.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, the EPA amends 40 CFR chapter I as follows:

PART 180--TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. In §180.920, amend the table by adding “calcium pantothenate” in alphabetical order to read as follows:

§ 180.920 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
***	**	**
Calcium Pantothenate (CAS Reg. No. 137-08-6)	0.1% by weight in pesticide formulations	Enzyme cofactor
***	**	**

[FR Doc. 2020-23109 Filed: 11/4/2020 8:45 am; Publication Date: 11/5/2020]